

## **Remarks**

### **Status of the Claims**

Concurrent with a Request for Continued Examination (" RCE" ) under 37 CFR § 1.114, this paper is filed in response to the Office Action mailed July 9, 2007, in which claims 1, 3, 5, 7-9, and 23-43 were pending in the application. Each of the pending claims stands rejected. By this paper, claims 1, 23, and 40 have been amended. For at least the reasons set forth below, Applicant submits that each of the pending claims is patentably distinct from the cited prior art and in condition for immediate allowance. Reconsideration of all pending claims is therefore respectfully requested.

### **Claim Rejections**

Claim 40 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Mankovitz (WO 98/48566). Claims 1, 3, 5, 7-9, 23, 24, 26-34, 36-39, and 41-43 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Macrae (U.S. Patent Application Publication No. 2003/0005463 in view of Mankovitz, and in further view of Garrett (U.S. Patent No. 6,473,738). Claim 25 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Macrae in view of Mankovitz, and in further view of Garrett and Blackketter et al. (U.S. Patent No. 6,415,438). Claim 35 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Macrae in view of Mankovitz, and in further view of Garrett and Zigmond et al. (U.S. Pat. No. 6,400,407). For at least the following reasons, Applicant respectfully traverses these claim rejections and requests reconsideration thereof.

Each of the pending independent claims has been amended to clarify that the transactions that are deferred and resumed must first be ***initiated*** and ***partially conducted***. Independent claim 1 was amended to recite that the first command received from the user input device is so received “after a user has initiated and partially-conducted the transaction.” This aspect of the claimed invention has been further clarified by also amending claim 1 to recite deferring the “previously-initiated and partially-conducted transaction.”

Independent claim 23 was similarly amended to explicitly recite the step of “initiating the transaction,” along with reciting that the user command is to “defer the previously initiated and partially-conducted transaction.” In order to further clarify and avoid confusion, Applicant also amended claim 23 to recite that the deferred transaction is resumed from the point at which it was deferred “such that steps involved in partially conducting the transaction need not be repeated.”

Independent claim 40 was also similarly amended to recite receiving a command to defer the transaction “after a user has initiated and partially conducted the transaction.” Also similar to claims 1 and 23, claim 40 was amended to further clarify that the transaction that is deferred was “previously-initiated and partially-conducted.” Moreover, claim 40 was further amended to clarify the definition of a “snapshot.” In particular, claim 40 now recites that the claimed snapshot comprises “a single, static image of at least a portion of the broadcast segment.”

Although Applicant respectfully disagrees with the Examiner’s position vis-à-vis the previous claims, the claim amendments presented herein are offered to more clearly define around the prior art and avoid any further delay to issuance of the

application. Applicant therefore reserves the right to present broader claims in a subsequent amendment or continuation application.

To illustrate the now clear and unmistakable differences between Applicant's claims and the cited prior art, Applicant refers the Examiner's attention to the Office Action. The Examiner asserts that if a user of the Mankovitz system for some reason chooses to interact with a trivia website prior to interacting with a shopping website, this may be considered "deferring" a transaction associated with the shopping website. Office Action at page 3. Although Applicant disagrees with this interpretation of the previous claims, the amendments discussed above are offered to remove any possibility for construing the claims so broadly. To illustrate, a Mankovitz user who chooses to postpone linking to a shopping website by instead linking to another website (e.g., trivia) cannot be considered to have ***initiated*** and ***partially conducted*** a transaction offered at the shopping website, regardless of whether such a user might be considered to have deferred and resumed the transaction. Such a user would never have initiated, let alone partially conducted, a transaction at all until linking to the shopping website. As such, choosing to postpone linking to the website cannot be considered to defer a ***previously-initiated and partially-conducted*** transaction. These limitations are wholly missing from Mankovitz, as well as each of the other cited prior art references.

Claim 23 contains these same limitations, but also further specifies that the deferred transaction is resumed from the point at which it was deferred "such that steps involved in partially conducting the transaction need not be repeated." If a Mankovitz user decided to link to a shopping cite and initiate a transaction, there

would be no way to defer and resume the transaction so as to avoid repeating steps. At best, Mankovitz only provides a way to relink to the cite so as to start the transaction over.

Claim 40 is patentably distinct from the cited prior art for the reasons set forth above, and for additional reasons. Claim 40 requires capturing a “snapshot” of at least a portion of the broadcast segment relating to the transaction in response to a command to defer the transaction. The Examiner asserts that by buffering/recording a television signal, such as an advertisement, the portion that is being missed comprises multiple “snapshots”, corresponding to the video display rate. Office Action at page 3. Applicant believes this to be an unreasonably broad interpretation of the claims. Nevertheless, in the interest of facilitating issuance of the application and avoiding further delay, Applicant has amended claim 40 to clarify that a “snapshot” comprises “a single, static image of at least a portion of the broadcast segment.” Applicant respectfully submits that the Examiner’s interpretation now cannot stand for at least two reasons.

First, a video, which by definition comprises a sequence of images giving the illusion of continuous movement, cannot be considered to be a “single, static image,” as now recited in claim 40. The amendment presented herein clearly and explicitly defines around the Examiner’s interpretation of claim 40, since a video comprises **multiple** images, rather than a single one, and since a video is **dynamic**, not static.

Second, even to the extent a video could be considered a “snapshot,” the time-shifting feature of Mankovitz does not in any manner restore a user’s context in the transaction, as also required by claim 40. To the extent a user of Mankovitz

pauses a television signal at a point when a transaction is offered, resuming display of the signal merely re-offers the transaction. It does nothing to restore context within the transaction. To further illustrate with an example, even if the user decided to initiate a transaction offered in the supplemental content of Mankovitz, and then decided to pause the signal, upon resuming the signal, the user would merely be presented with the offer again. Since the transaction would already have been initiated in such a situation, re-offering the transaction would be of no use to the viewer. It would require the viewer to scrap whatever work had already been done in completing the transaction and start over. In other words, Mankovitz and the other cited references, whether considered individually or collectively, fail to disclose or suggest a system that coordinates resuming a transaction with the television programming so that work previously done in completing the transaction is not lost and so that the user's context within the transaction is restored.

This distinction is reinforced by virtue of another amendment presented in this paper. Applicant has specified that the retrieved snapshot must restore a user's context in a "previously-initiated and partially-conducted" transaction. Thus, even to extent the Examiner still considers a postponement in the initiation of a transaction to comprise "deferring" and "resuming" the transaction, such a postponement cannot be considered to restore context in a ***previously-initiated and partially-conducted*** transaction.

For at least the foregoing reasons, each of the pending independent claims is patentably distinct from the cited art. For at least the same reasons, each of the dependent claims is also patentably distinct.

### Conclusion

In light of the preceding remarks, Applicant respectfully submits that each of the pending claims is patentably distinct over the cited references, alone or in combination. A Notice of Allowance is respectfully requested.

Respectfully submitted,

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